REMARKS

Claims 1 and 16 have been amended to define the claimed invention with greater specificity by emphasizing that the claimed differential density fibrous structure comprises two or more regions that differ in density. Support for these amendments is found in the Specification at page 10, lines 20-21 and in the Drawings.

Claims 1-31 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §112, Second Paragraph

Claims 1-31 have been rejected under 35 USC §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner asserts that the structure of the claimed fibrous structure is not set forth.

Applicants respectfully disagree with the Examiner's assertion. Applicants respectfully submit that Claims 1-31 are not indefinite and do particularly point out and distinctly claim the subject matter regarded as the claimed invention. The terms of the claims are definite in light of the Specification and Claims as a whole. For example, the Specification makes it clear that the claimed fibrous structure is any fibrous structure that is suitable for incorporation into a sanitary tissue product. Further, Applicants respectfully submit that one of ordinary skill in the art understands what "fibrous structure" means with respect to the claimed invention. Accordingly, Applicants submit that woven and knitted fibrous structures are not included within the meaning of the claimed fibrous structure because such fibrous structures are not suitable for inclusion in sanitary tissue products.

With respect to the phrase "differential density" as it refers to a fibrous structure, Applicants submit that the phrase is definite in light of the Specification and Claims as a whole. For example, the Specification makes it clear that a differential density fibrous structure means that the fibrous structure has at least two regions that differ in density from one another in the x-y direction.

PAGE 8/10 * RCVD AT 10/12/2005 7:42:24 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:513 634 8911 * DURATION (mm-ss):03-42

In light of the foregoing, Applicants respectfully submit that Claims 1-31 are not indefinite and do particularly point out and distinctly claim the subject matter regarded as the claimed invention.

Rejection Under 35 USC §102(b)/§103(a):

Claims 1-31 are rejected by the Examiner under 35 USC §102(b) as allegedly being anticipated by or, in the alternative, under 35 USC §103(a) as allegedly defining obvious subject matter over U.S. Patent No. 6,328,850 to Phan et al. ("Phan"). The Examiner asserts that Phan discloses a multi-layered paper product wherein an inner layer may comprise relatively long fibers having a length of 2.5 mm or greater which is sandwiched by outer layers comprising fibers having a length of less than 1.5 mm. The Examiner further asserts that Phan does not disclose the modulus to tensile strength ratio per se, but does appear to disclose the same fibrous structure.

Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Phan fails to teach each and every element of Claims 1 and 16, as amended, because Phan fails to teach a fibrous structure having two or more regions that differ in density. Applicants submit that anticipation by inherency means that the reference must necessarily produce the claimed invention, in this case a differential density fibrous structure comprising two or more regions that differ in density. As a result, Applicants respectfully submit that the products described by Phan are not the same or substantially identical to the claimed invention. Therefore, the Examiner has no support to argue that the products of Phan inherently exhibit the properties claimed in the claimed invention as claimed in Claims 1 and 16, as amended. Accordingly, Applicants submit that Claims 1 and 16, as amended, are not anticipated by nor rendered obvious over Phan. Further, Applicants submit that Claims 2-15 and Claims 17-31, which ultimately depend from Claims 1 and 16, as amended, are not anticipated by nor rendered obvious over Phan.

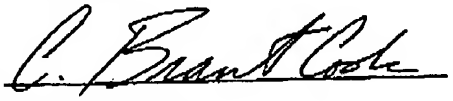
Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC §102(b) and 35 USC §103(a). Early and favorable action in the case is respectfully requested.

PAGE 9/10 * RCVD AT 10/12/2005 7:42:24 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:513 634 8911 * DURATION (mm-ss):03-42

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-31 is respectfully requested.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY

By 

C. Brant Cook
Registration No. 39,151
(513) 634-1533

Date: October 12, 2005
Customer No. 27752

PAGE 10/10 * RCVD AT 10/12/2005 7:42:24 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:513 634 8911 * DURATION (mm-ss):03-42